



N.º 08/21

NEWSLETTER

THE UK NATIONALS' RIGHT OF RESIDENCE IN PORTUGAL AFTER BREXIT (UPDATE JAN 2021)

This Information is intended for general distribution to clients and colleagues and the information contained herein is provided as a general and abstract overview. It should not be used as a basis on which to make decisions and professional legal advice should be sought for specific cases. The contents of this Information may not be reproduced, in whole or in part, without the express consent of the author. If you should require further information on this topic, please contact contact@rfflawyers.com.

*

This Information is sent in compliance with articles 22 and 23 of Decree-Law no. 7/2004, of 7 January, regarding unsolicited e-mails. If you wish to be removed from our mailing list and avoid similar future communications, please send an email with "Remove" to the email address newsletter@rffadvogados.com.

Legal 500 – Band 1 Tax "Portuguese Law Firm"/ Band 1 Tax "RFF Leading Individual" and highlighted in "Hall of Fame", 2013, 2014, 2015, 2016, 2017, 2018, 2019
 Chambers & Partners – Band 1 Tax "RFF Ranked Lawyer", 2013, 2014, 2015, 2016, 2017, 2018, 2019 and Band 1 "Private Wealth Law" - HNW "RFF Ranked Lawyer", 2018
 International Tax Review – "Best European Newcomer" (shortlisted) 2013 / "Tax Controversy Leaders", 2014, 2015, 2016, 2017, 2018, 2019 / "Indirect Tax Leaders", 2015, 2016, 2017, 2018, 2019 / "Women in Tax Leaders Guide", 2015, 2016, 2017, 2018, 2019 / "European Best Newcomer", 2016 / "Tax Firm of the Year", "European Tax Disputes of the Year" and "European Indirect Tax Firm of the Year", (shortlisted) 2017
 Best Lawyers – "RFF Tax Lawyer of the Year", 2014 / "Recommended Lawyers", 2015, 2016, 2017, 2018
 Who's Who Legal – "RFF Corporate Tax Adviser of the Year", 2013, 2015, 2016 / "RFF Corporate Tax Controversy Thought Leader", 2017 "Corporate Tax: Advisory and Controversy", 2017, 2018, 2019
 Legal Week – RFF was the only Portuguese in the "250 Private Client Global Elite Lawyers" 2018
 STEP Private Clients Awards - RFF "Advocate of the Year 2019" (shortlisted)
 IRFD Tax Correspondent Angola, Mozambique and East-Timor. 2013, 2014, 2015, 2016, 2017, 2018, 2019

SUMMARY

On January 31st of 2020, the United Kingdom (UK) officially left the European Union (EU), being no longer a Member State, being established a transition period until the 31st December 2021.





THE LEGAL FRAMEWORK

On January 31st of 2020, the United Kingdom (UK) officially left the European Union (EU), being no longer a Member State. With the country's exit began, on February 1st of 2020, a transition period was foreseen in the celebrated Withdrawal Agreement.

This transition period ended on December 31st of 2020, being assured during this period that the previously existing rights of citizens, consumers, companies, investors, students, and researchers, either within the EU and the UK.

An immediately effect of the UK exit from the EU is that it is no longer represented within the EU's institutions, bodies, offices, and agencies, no longer being able to participate in the decision-making process.

Being the right of any European citizen and their families to live, work or study in any Member State a fundamental right of the EU, one of the main concerns during the Withdrawal Agreement negotiations was to secure such rights and also protecting the life choices made based on the free movement principle.

In this sense, it is important to understand how, in practice, will the Brexit affect or not in the future the possibility of UK nationals to live, study or work within the EU, specifically, in the Portuguese case.

CITIZENS WHO ALREADY HAVE A CERTIFICATE OF PERMANENT RESIDENCY IN PORTUGAL

UK nationals or their relatives already holding a certificate of permanent residency in Portugal as an EU citizen, will benefit from a right of residency in the same terms as before Brexit, being subject to the respective rights and obligations to which they were already subject to. Hence, in this case it is not necessary to proceed with any action to maintain the residency right.

Nevertheless, should the permanent residency certificate expire, it is necessary to renew it at the Immigration and Borders Service (SEF), by submitting the adequate documents to prove that, even after the end of its validity, the Portuguese residency was maintained.

Additionally, the relatives of the UK nationals should also submit a supporting proof of the family bond.

CITIZENS WHO DO NOT YET HAVE A PERMANENT RESIDENCY CERTIFICATE IN PORTUGAL

The individuals who already live in Portugal and are duly registered as EU citizens, having obtained the correspondent certificate, can still request at SEF the issuing of a permanent residency certificate, once completed the 5 year-period of legal residency in Portugal. Until the completion of such period, as well as after obtaining the permanent residency certificate, all the citizens' rights regarding residency in Portugal will maintain.

Once completing the 5 year-period, or if the citizen already lives in Portugal for more than 5 years, the permanent residency certificate should be requested at SEF, proving for this purpose the necessary period of legal residency in Portugal.

In order to complete the full right of residency in Portugal citizens with an EU certificate should register their residency before SEF and exchange the EU certificate for a residency authorization.

CITIZENS WHO WISH TO CHANGE THEIR RESIDENCY TO PORTUGAL AFTER THE TRANSITION PERIOD

The individuals who wish to change their residency to Portugal after the transition period will now have to go through a Visa/ Residency authorization process.

The usual procedure is to request a visa at the Portuguese consulate in the country of residence in order to be able to travel to Portugal and, once in Portugal, to request a residency authorization.

CONCLUSIONS

On January 31st of 2020 the UK left the EU, not continuing to be one of its members. With such decision a transition period began, as foreseen in the Withdrawal Agreement.

Such transition period ended last December 31st of 2020, being all the preexisting residency rights and obligations foreseen maintained and applicable to all UK nationals already living in Portugal or that arrived to Portugal until the end of 2020.

Individuals that arrived or will arrive after the end of the transition period will have to go through a Visa/ Residency authorization process.



SOCIEDADE DE ADVOGADOS, SP, RL
ROGÉRIO M. FERNANDES FERREIRA
& ASSOCIADOS

N.º 08/21

The UK nationals' right of residence in Portugal after Brexit
(UPDATE 2021)

Lisbon, 15th of January of 2021

Rogério M. Fernandes Ferreira
Filipa Gomes Teixeira
Duarte Ornelas Monteiro
Joana Marques Alves
Raquel Cabral Duarte
(Private Clients Team)

www.rfflawyers.com

www.taxandlegalbyrff.com